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TUESDAYS AND FRIDAYS.

## JAKE WALLIN DECLARED NOT GUILTY BY JURY

Sensational Trial Comes to End With Verdict Approved by Those who Heard Evidence

After deliberating from half past three o'clock Thursday afternoon until half past eight Friday morning, the jury trying Jake Wallin for the murder of Lige Hoskins at Crab Orchard last December, returned a verdict into court, finding him not guilty.

The verdict met with the approval generally, of all who had heard the testimony it having been clearly shown that Jake Wallin had shot only when he saw his little nephew being beaten over the head with a pistol by Hoskins.

The cases against Dud Wallin and his son Ernest, will now be dismissed by the Commonwealth.

Monday, Tuesday and Wednesday, this week, were consumed in taking the testimony in the case. Every point brought out was bitterly contested by the attorneys for the defense and prosecution. This was one of the hardest fought cases tried in the Lincoln Circuit Court in a long while, and on account of the interest large crowds were present nearly every day.

Commonwealth's Attorney George D. Florence, County Attorney W. S. Burch, and Attorneys John Sam Owsley, Jr., and M. F. North appeared for the prosecution, while Mr. Wallin was represented by Attorneys J. W. and K. S. Alcorn, Robert Harding and J. Mort Rothwell.

The testimony was concluded late Wednesday afternoon. Judge Hardin allotted two and a half hours to each side for argument. He read his instructions to the jury Thursday morning, which covered the case fully.

Judge Alcorn spoke first for the defense, followed by Mr. North for the Commonwealth; then Mr. Rothwell for the defense followed by Mr. Burch for the prosecution. Mr. Harding closed for the defense and Mr. Owsleys for the state. The case was given to the jury at 3:30 o'clock.

### The Commonwealth's Testimony

Dr. W. J. Edmiston, who has been practicing medicine for 17 years at Crab Orchard—Was near Baptist church and didn't see shooting and heard shots; was called to attend Hoskins; found him suffering from four bullet wounds; first shot over liver, thought bullet went into liver; another shot was in right hip just above hip bone; another shot in right thigh; turned him over and found a shot in his back; treated him with morphine etc. Hoskins told me he was going to die to do what I could for him quickly. He made a dying declaration which I reduced to writing. He said he was conscious but had no hopes of recovery and was then asked to tell how the trouble happened. Hoskins statement was as follows:

### Hoskins Dying Statement

"Dad Wallin came into Riddle's place and said 'I want to see you.' I said 'all right.' He asked me if I was a deputy marshal. I told him I was. He then said his brother Walter said I was following him around to arrest him. I said I did not want to arrest him, that he was one of my best friends. He said 'D—n, if you want to fight, we are your chickens. If you ever kill one of us, you will have us all to kill.' I told him I did not want to bother him, and did not aim to, that we were brother Odd Fellows. When I said that, Walter came between us, and shot me; then I shot Walter and guess I killed him. Then I emptied my pistol and I reckon I hit Dud. I ran out of the door to get out of the way, when Ernest Wallin caught me and cried 'you old S—of—b.' I tried to get away from him but he held to me like a leech. Then Jake Wallin ran up and began shooting at me and I think hit me every shot. Three shots hit me in the body. This happened at Crab Orchard in Lincoln county."

Cross examined Dr. Edmiston said: Statement was made about an hour after I gave him morphine; Joe Magee put the questions to Hoskins for his statement and I took them down at the request of town marshal; used his exact words as nearly as I could. Hoskins made one remark that was not taken down, it was that Dud Wallin had gotten his brother killed. He did not say anything about beating Ernest Wallin over the head with a pistol. Couldn't say for sure which was the fatal wound, but his opinion was it was the one in the back. Hoskins said he received the wound in the back as he went out the door of

Riddle's place. He didn't say who gave it to him. Dr. L. F. Jones testified that Lucien M. Lasley, an eye witness, was dead.

John Riddle who owned the soft drink stand in which the shooting took place, was put on the stand. The court did not allow him to tell of a trouble he had had with Jake Wallin prior to the killing. He was at home when the shooting occurred in his soft drink stand, which he had left in charge of James Herrin and Joe Riddle. He said Walter Wallin in his place several times that day drinking, and got "tolerable full" as the day advanced; Dud Wallin was in his place several times that day then that day. He talked to the Wallins, but none of them had mentioned Hoskins' name.

Ben Howard—Went into Riddle's place and found Walter Wallin and Cepi Leece playing pool. Walter seemed to be intoxicated. Witness went out on pavement before trouble occurred. Walter was out, too, but went back. No trouble outside. Walter and Hoskins went inside again, Walter going back into the poolroom. Saw Dud Wallin coming toward Hoskins. Dud asked him if he was a deputy town marshal. Hoskins said he was. Dud said to him, 'You needn't be hounding Walter down. We won't have any of his G—d—enemies arrest him. Hoskins said 'I'm not his enemy. Walter is my friend'. Dud said 'we consider it so,' and Dud walked walked back into the poolroom, Hoskins remaining where he was. Saw Walter come out of poolroom door and pull his pistol and went to soft drink counter, had pistol in his hand pecking it against the counter, talking to Joe Riddle and Herrin. Dud was between Hoskins and Walter. Dud and Sam Magee walked up to Wallin; he was "going on", and he took his pistol and slung it around and told them to get away. They stepped off and Magee didn't come back. Dud came back and said something to Walter. Dud wheeled around and commenced talking to Hoskins. He ordered Hoskins to take his hands out of his pockets. He said he wouldn't, and Dud cursed him and told him he would have to take them out and he said he reckoned he would not. Walter was still there, and drew his pistol toward Hoskins. I think that shot hit Hoskins. I reached over and grabbed Walter Wallin's arm. Hoskins then fired. They were very close together, and he hit Walter, somewhere in the breast. Walter began to sink down, and Hoskins aimed to shoot him again, when this boy Ernest Wallin knocked his arm down when the bullet from Hoskins' pistol hit me in the leg. The only person shooting were Walter Wallin and Hoskins. Walter shot four times and Hoskins five. Didn't know whether Dud had pistol or not. Lights went out while shooting was going on. Hoskins went out of the door, with Ernest Wallin hanging on to his arm. I heard some voice out there that I thought was Ernest Wallin say "shoot him, G—d—n, or something to that effect. Immediately after that I heard some shots; was in the house and don't know who did the shooting."

On cross examination it was brought out that at the examining trial Howard had testified that he did not know whose voice it was that had called out to Jake Wallin to shoot. It was brought out that Howard, Hoskins and Walter Wallin had all taken a drink of malt together about 15 minutes before the shooting.

James G. Herrin, who was helping Riddle in the soft drink stand didn't know much about the start of the affair; he had his back turned when the first shot was fired, and then dropped behind the counter. He said Walter Wallin was drinking a little. Did not see Dud take any drinks.

Joe Riddle told about the same story, no new facts being brought out by his testimony.

This concluded the testimony on Monday afternoon.

### Tuesday's Testimony

Mrs. Hoskins was put on the stand to tell about Lucien Lasley having testified at the examining trial, but she was ruled out, not having been present at that time.

Sam Magee, who was in the room when the shooting occurred, said that Jake Wallin had sent him there to try to get Walter to go home. He said he and Walter were at the counter; Walter had his pistol out; Dud and Hoskins were talking; Dud asked Hoskins if he was an officer, and said he believed he had been

following them around all day. Hoskins said he didn't see any reason why he should take them; then Walter told him to take them out, and then the shooting began, he said that in his best judgment Hoskins had fired first; three shots were fired rapidly, and Walter fell to the floor; he said he couldn't say that Walter had fired a shot; didn't see either fire the first shot but from the direction it came he judged it was Hoskins. He saw none of the trouble outside. Jake Wallin came up afterwards and asked what was the matter.

The Commonwealth then introduced County Judge J. P. Bailey and Mrs. A. E. Miller, in order to prove the testimony of the late Lucien M. Lasley, who was a witness to the shooting. Mrs. Miller was the official stenographer who took Mr. Lasley's testimony at the examining trial. The Judge allowed Mrs. Miller to read her transcript of the testimony, over the objection of the defense. Mr. Lasley's testimony said that he was near the Perkins House when he heard the shots. He then saw two men come out of Riddle's place struggling desperately. Soon he saw Jake Wallin come up. He came up behind Hoskins, but went around to his side and then shot three times. Jake Wallin fired his third shot as the two men became unbalanced. He said Hoskins then ran and Jake Wallin fired twice. Mr. Lasley was asked to describe the wounds sustained by Hoskins, which he did.

The defense did not cross examine Mrs. Miller as to Mr. Lasley's testimony, but asked her concerning her transcript of the testimony of "Black Ben" Howard, and asked her to read it.

Dick Buchanan colored—Told of being in Riddle's place before the shooting. He said he saw Walter Wallin, Dud Wallin and Lige Hoskins in there. Walter Wallin came in out of the pool room while Dud Wallin and Hoskins were talking. Mr. Wallin was telling Hoskins not to follow his brother if he wasn't aiming to arrest him. Hoskins said he wasn't aiming to arrest him. Dud Wallin was telling Hoskins he had always been his friend. Walter Wallin came out of the pool room and had his pistol in his hand. Dud Wallin told Hoskins to take his hands out of his pockets. Witness then went out of the room, and in about a minute heard shots in the house. After the shots two men came out of the door; it was dark, so couldn't swear to who they were, men came out struggling, to middle of road; little man was holding big man by coat; big man trying to get loose, heard five shots in street, couldn't see who man was doing shooting; it was dark.

Cross-examined—Didn't see big man hitting little man on the head; saw big man "wringing" his body as if trying to pull loose; couldn't swear to who they were. After shots in street, Mr. Hoskins came trotting by, with a pistol in his hand. He went into Mr. Sam Tate's, broke his pistol and reloaded.

Mrs. Jennie Tate—Heard last three shots, raised the window and hollered; saw forms on the street; didn't recognize anyone; my husband pulled me in out of the window, saying I would get shot.

Joe Magee—Police Judge, of Crab Orchard, was called but excused with out examination, the court sustaining an objection of the defense that he was without authority to have sworn in Hoskins as deputy marshal of Crab Orchard. The question was threshed out by the attorneys in absence of the jury. It was shown that the statutes make no provision for the appointment of deputy marshals in sixth class cities a rather peculiar omission. The contention of the defense is that Hoskins was without authority to act as deputy marshal of Crab Orchard, at the time of the shooting affair.

Brack Graw—Was working in L. L. Sanders' store at time of shooting. Stepped out to light a street lamp and saw men in the street and heard three shots. Went down the street, to Sam Tate's, met Lige Hoskins, his shirt was torn and bloody; he says "I'm shot, I'm killed." He laid down on floor; had his pistol in his hand. Not cross examined.

R. L. Collier—Was in Campbell & Pettus' store, and heard some shooting, walked to front of store; saw two men near middle of pike; seemed to be in fight; one was hitting the other over the head with a pistol; another man came up and began shooting; the man who was hit-

ting the other over the head was a larger man.

Joe Kidwell—Saw two men come out of Riddle's; Lige Hoskins was hitting at Ernest Wallin. Wallin had hold of lapel of Hoskins' coat; saw another man shoot then, but couldn't tell who he was.

Wiley Singleton—Was with Jake Wallin before shooting, took a drink behind stairway with him; he left after he heard five shots in Riddle's and went out on street.

Cross examined—Couldn't see Riddle's from where they took the drink behind the stairway.

James Hoskins son of Lige Hoskins—Was in Crab Orchard, at Leece & Kidwell's store and heard shooting; came up the street and saw his father with Ernest Wallin a-hold of him; his father was trying to shake him off; they went out into the street and Jake Wallin came a-running across and began shooting at him; his father was going away from Ernest Wallin and was going away from Jake, when Jake was shooting; his father did not shoot on the street.

Cross examined—Didn't see his father beating Ernest Wallin over the head; looked like he was trying to shake himself loose from Ernest Wallin.

Otha Catron—Went to Riddle's to get Dud Wallin out; didn't see first shot; heard Dud Wallin tell Hoskins he couldn't arrest his brother Walter; I got out of there then; heard the shots and saw Hoskins come out with Ernest Wallin; saw Jake come and begin shooting; someone hollered "whoose that a fighting?" Hoskins seemed to be trying to get away from the boy; heard nothing said by any of the men fighting; Hoskins was knocking and trying to pull loose from Ernest Wallin, it might have been Walter trying to get loose from Hoskins; didn't see any shot fired by Hoskins at Ernest as they came out the door.

The first witness called Tuesday afternoon was Tom Bronaugh, who told of hearing the shooting inside the house. Saw Hoskins come out of house with Ernest Wallin hold of him. Ernest seemed to be trying to trip him. And Hoskins was hitting at him, trying to knock him loose. Saw him hit at him twice with his pistol. Jake Wallin ran over with a pistol in his hand. Testified at examining trial, and since then has received letters about his testimony. Letter has been taken away from him.

The Commonwealth sought to prove that the defendant and another member of his family had met young Bronaugh at night and had taken the letter away from him. Bronaugh told the court that he was unable to tell who the men were who took the letter from him, so the court ruled this testimony incompetent. Bronaugh said that when Jake Wallin first shot, he covered his head with his overcoat, and didn't see the other shots. Hoskins was head and shoulder taller than Ernest Wallin and about twice the size. Hoskins walked up the street after the shooting and Ernest stood there crying. His head was bloody.

Perry White, a bright faced 14-year-old boy, son of Bob White said he was outside Riddle's place when the shooting occurred. He told of seeing Walter Wallin fire at Hoskins and the latter pull his gun and reply. He said the lights went out and he could not tell who was shooting; he could only see the flashes from the pistols in the darkness. Hoskins then came out and Ernest Wallin grabbed him on the back as he went out. Heard Ernest Wallin say "shoot him uncle Jake, he's killed Walter." Hoskins started to run as he slipped out and Ernest grabbed him. Jake Wallin fired four shots.

Cross examined the lad told the same straight story he did on direct examination, and was not budged from any of the material points of his main testimony. The Commonwealth closed with this witness.

Judge Hardin then adjourned court for an hour out of respect to the memory of Mr. S. H. Shank, whose funeral was held at three o'clock, and attended by all of the court officials.

### Defendant on Stand.

Jake Wallin, the defendant, was put on the stand, after court reconvened. He told a straightforward story of the happening of the fatal day in Crab Orchard. How he had come to town to buy Christmas presents for his little children, and delayed home until after nightfall in order to keep them from finding out about the presents. He visited various stores about town, making purchases, and talked for some

time with an old lady by the name of Mrs. Leece. Later in the evening he met Wiley Singleton who invited him to take a drink with him, and he did so. While they were together he heard shooting at Riddle's place, and immediately ran over because he knew that his brother, Walter, was in there, though he didn't know that either his brother, Dud, or his nephew, Ernest, was there.

He met Sam Magee in front of Riddle's place, just as two men came out struggling. He asked Sam what the trouble was, he said, and Sam replied that his brother Walter had been killed and his brother, Dud shot. The defendant said:

I saw Hoskins beating my nephew over the head with a revolver; I shot because I had had information he had killed my brother, Walter, had shot my brother Dud and seemed to be doing everything he could to kill my nephew, Ernest. Afterwards I went where my brother was and told them to get a doctor.

Hoskins was a man who weighed about 175 pounds and about 5-11 or 6 feet in height, strongly built. Ernest as a small boy for his age, weighs something like 110 or 120 pounds, and weak physically. I saw him afterward his head was bleeding with blood running down on his clothing; he had three or four wounds on his head. He had no weapon. He is 19 years old, I think.

Didn't recognize who the man was that was beating Ernest over the head, until I fired the first shot. There seemed to have been seven or eight shots fired in the building. I did not shoot until after Sam Magee had told me of my brother being killed inside. Brother Dud was shot in the flesh and a bullet hole was through his clothing, a bullet hole was in the clothing of my nephew, Ernest Wallin. Drove to my mother's, afterward to tell her of my brother's death.

Carried a pistol as traveling salesman and collector, often having a large sum of money in my charge, traveling in a number of different states. Had been perfectly friendly with Hoskins before this trouble.

Had remained in town until after dark to get some toys for the children, to play Santa Claus.

Cross examined—Had been located at Dathan, Ala., and had been home only a few weeks. The court sustained objections to all questions referring to any trouble the defendant may have had with Riddle. Armed himself before leaving home, as a matter of habit, carried it every day; was not engaged in making any collections around Crab Orchard. Met Walter at Gover's stable, he had a quart bottle of brandy and I took one with him.

Was taking drink with Wiley Singleton when heard shots. I went over to Riddle's because I knew my brother was in there; I had just sent in after him. Met Sam Magee at the door. Ernest Wallin and Hoskins were on pavement as I got to the door. Hoskins fired as they reached the street. I stopped and asked Sam Magee what was the trouble. He said my brother Walter was killed and my brother Dud was shot. I asked him who did it, and he pointed toward Hoskins, who was struggling with my nephew.

Prosecutor Owsley sought to make the witness say which reason promoted him to shoot Hoskins, whether it was because his brother had been killed, or his nephew was being attacked. The witness said that all these reasons had actuated him, but that at that immediate minute, he saw a man attempting to kill his nephew, as he thought, and shot to protect him and save his life. Hoskins' body was sideways to the witness and he could not tell whether his shots took effect or not. Hoskins at no time had his back to witness, during the shooting. Didn't hear his nephew call to witness to shoot him, or say anything. Was not under the influence of liquor; had only two drinks that day. About the fourth shot Hoskins turned toward me with his pistol. "I fired; he did not." Didn't stop to inquire whether his brothers were in fault. In reply to a question whether he had any feeling of personal danger from Hoskins the witness said that inasmuch as Hoskins had killed one brother, shot another and was trying to kill his nephew, was enough to make any man fear some personal danger.

Dud Wallin, a brother of the defendant was the first witness on the stand for the defense when court reconvened Wednesday morning. He told of the day of the killing. He

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## ICE CREAM FACTORY TO MOVE TO MCKINNEY.

D. C. Sipple to Change Location of Big Plant From London to Lincoln County.

Lincoln county is to gain another important commercial enterprise this week, when D. C. Sipple, who has operated a mammoth ice cream factory at London for the past few years, will move it to McKinney, where it will be run in the future. C. M. Sipple, son of Mr. and D. C. Sipple, will be the manager of the factory, while Mr. Sipple himself will attend actively to the manufacture of the product.

Mr. Sipple's idea in locating the factory in McKinney is to be able to operate both up and down the Cincinnati Southern and the L. & N. railroads. His delivery wagons will run regularly to Stanford for the purpose of securing ice, and delivering ice cream, so that he will have direct connection with both roads, and thus be in a splendid position to command a large field. There is no ice cream factory south of Lexington, and he will be able to take care of a vast stretch of territory from his location at McKinney.

## BLOWN UP BY ENGINE

W. C. Tucker Seriously Hurt But Kept Home Folks in Ignorance

W. C. Tucker, son of Mr. and Mrs. W. T. Tucker, arrived home last week, from Urbana, Ohio, where he has been in a hospital for several weeks, with an injured leg, as a result of having been in an explosion on the Erie railroad, on which he has been firing for some time past. The engine in which Mr. Tucker was working exploded, tearing up things generally, and doing a great amount of damage. Mr. Tucker was blown out, into a pond, and was seriously injured, being compelled to remain in a hospital for six weeks, while recovering. He kept the home folks in profound ignorance of the accident, until he was recovered sufficiently to return home for further recuperation. It is almost a miracle that he was not instantly killed.

## McROBERTS—EMBRY

Popular Couple Wed in Presence of a Few Loved Ones

In the presence of a few loved ones, the words were said Wednesday, which united in the holy bonds of wedlock the hearts and hands of Mr. William S. Embry and Miss Dollie McRoberts. The wedding was a very quiet one, on account of recent bereavements in both families, and the heartfelt wishes for a life of happiness together were all the more sincere by such reason.

There will be found few couples more generally beloved in this community than this newly married pair, and the congratulations and good wishes of everyone will be theirs, as they start on life's journey together.

Rev. D. M. Walker performed the ceremony, the bride being dressed in a blue silk poplin and carrying a bouquet of lilies of the valley. A large number of handsome presents attested their popularity.

The bride is the daughter of the late Mr. and Mrs. John J. McRoberts and one of Lincoln county's best beloved daughters. The groom is the son of Mr. and Mrs. Sam J. Embry, Sr., who has made a fine record as deputy sheriff and is known and liked by everyone.

After the ceremony they drove to the home of the groom's parents, where an informal course dinner was served to the wedding party. Mr. and Mrs. Embry will make their home in an attractive cottage on West Main street, which has been the home of the bride for some time.

## A GOOD WOMAN GONE

Mrs. Drucilla Hurst, wife of "Uncle Billy" Hurst, of Rowland, passed away at their home last Friday afternoon, after a lengthy illness of tuberculosis. She was a good woman a faithful member of the Methodist church and will be mourned by a wide circle of friends. Mrs. Hurst is survived by her husband and five children, the youngest being but four years of age and needing a mother's love and care. She was about 45 years of age. Funeral services were conducted at the home Sunday afternoon at half past two o'clock by Rev. J. J. Dickey, followed by interment in the Buffalo Cemetery.